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OFFICE OF PETITIONS

In re Application of
McConnell, et al.
Application No. 10/071,833
Filed: 7 February, 2002
Attorney Docket No.: SPRINT1811

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: DECISION ON PETITION
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This is a decision on the petition filed on 12 May, 2003, to revive the instant nonprovisional application under the provisions of 37 C.F.R. §1.137(f), and considered as a petition under 37 C.F.R. §1.137(b).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of Petitioner identifies as "an International Application" filed on 12 November, 2002. However, while Petitioner rescinded his non-publication request in a filing on 18 November, 2002, (within 45 days of the international application filing) Petitioner unintentionally failed to "Notice" the US Patent and Trademark Office within 45 days subsequent to the filing of the international application.¹

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement, that requires publication of applications 18 months after filing.

A petition under 37 C.F.R. §1.137(f) must be accompanied by:

¹ While Petitioner alleges that "based on the note in Form PTO/SB/36 (10-01) version explaining generally that 'filing this rescission of a previous nonpublication request is considered the notice of a subsequent foreign or international filing required by 35 U.S.C. 122(b)(2)(B)(iii),' " the record reflects that Petitioner did not use that form in his 18 November, 2002 filing.

- (1) the reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 C.F.R. §1.17(m); and
- (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. §122(b)(2)(B)(I) has been rescinded. Because the Office data base indicating an actual publication date of 7 August, 2003, a Corrected Filing Receipt, rather than a Notice Regarding Rescission of Nonpublication Request, indicating a projected accompanies this decision on petition.

The application is being forwarded to Technology Center 2100 for further processing in due course.

Inquiries concerning this decision may be directed to the undersigned at (703) 305-9199.



John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Encl.: Corrected Filing Receipt